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THE REASONS AND NARRATIVE OF PROCEEDINGS Betwixt the TVVO HOUSES; Which were delivered by the House OF Commons, TO THE LORDS AT THE CONFERENCE Touching the Trial of the Lords IN THE TOWER.

On Monday the 26th. of *May*, 1679.

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The Narrative, &c.

THe Commons have always desired that a good correspondence may be preserved between the two Houses.

There is now depending between your Lordships and the Commons a matter of the greatest weight, in the transactions of which your Lordships seem to apprehend some difficulty in the matters proposed by the Commons.

To clear this the Commons have desired this Conference, and by it they hope to manifest to your Lordships that the Propositions of the House of Commons made by their Committee, in relation to the Trial of the Lords in the Tower, have been only such as are well warranted by the Laws of Parliament and Constitutions of the Government, and in no sort intrench upon the Judicature of the Peers, but are most necessary to be insisted upon, that the ancient Rights of Judicature in Parliament may be maintained.

The Commons readily acknowledge that the Crimes charged upon the Earl of *Powis*, Viscount *Stafford*, Lord *Petre*, Lord *Arundel* of *Wardour*, and Lord *Bellasis*, are of deep guilt, and call for speedy Justice, but withall they hold, that any change in Judicature in Parliament, made without consent in full Parliament, to be of pernitious consequence, both to his Majesty, and his Subjects, and conceive themselves obliged to transmit to their Posterity all the Rights which of this kind they have received from their Ancestors, by putting your Lordships in mind of the progress that has already been between the two Houses, in relation to the Propositions made by the Commons, and the reasonableness of the Propositions themselves; they doubt not to make it ap-

pear, that their aim has been no other, than to avoid ſuch conſequences, and preſerve that Right; and that there is no delay of Juſtice on their part; and to that end, do offer to your Lordſhips the enſuing Reaſons and Narrative: That the Commons in bringing the Earl of *Danby* to Juſtice, and in diſcovery of that Execrable and Traiterous Conſpiracy (of which the five Popiſh Lords now ſtand impeached, and for which ſome of their wicked Accomplices have already undergone the Sentence of the Law as Traytors and Murtherers) have laboured under many great difficulties, is not unknown to your Lordſhips.

Nor is it leſs known to your Lordſhips, That upon the Impeachment of the Houſe of Commons againſt the Earl of *Danby* for High Treaſon, and other High Crimes, Miſdemeanours, and Offences, even the common Juſtice of ſequeſtring him from Parliament, and forthwith committing him to ſafe Cuſtody was then required by the Commons, and denied by the Houſe of Peers, though he then ſat in their Houſe; of which your Lordſhips have been ſo ſenſible, That at a free Conference the tenth of *April* laſt, your Lordſhips declared, That it was the Right of the Commons, and well warranted by Preſidents of former Ages; That upon an Impeachment of the Commons, a Peer ſo impeached ought of right to be ordered to withdraw, and then to be committed; And had not that Juſtice been denied to the Commons, a great part of this Seſſion of Parliament, which hath been ſpent in framing and adjuſting a Bill for cauſing the Earl of *Danby* to appear and anſwer that Juſtice from which he was fled, had been ſaved, and had been imployed for the preſervation of his Majeſtie's Perſon, and the Security of the Nation, and in proſecution of the other five Lords; neither had he had the opportunity for procuring for himſelf that Illegal Pardon, which bears Date the Firſt of *March* laſt paſt, and which he hath now pleaded in Bar of his Impeachment: Nor of waſting ſo great a proportion of the Treaſure of the Kingdom, as he hath done, ſince the Commons exhibited their Articles of Impeachment againſt him.

After

After which time thus loſt by reaſon of the denyal of that Juſtice which of right belonged to the Commons upon their Impeachment, the ſaid Bill being ready for the Royal Aſſent, the ſaid Earle then rendred himſelf, and by your Lordſhips Order of the ſixteenth of *April* laſt, was committed to the Tower. After which he pleads the ſaid Pardon, and being preſt, did at length declare, he would rely upon and abide by that Plea, which Pardon pleaded being illegal and void, and ſo ought not to barr, or preclude the Commons from having Juſtice upon the Impeachment. They did thereupon with their Speaker on the fifth of *May* Inſtant, in the Name of themſelves, and all the Commons of *England*, demand Judgment againſt the ſaid Earle, upon their Impeachment, not doubting but that your Lordſhips did intend in all your proceedings upon the Impeachment, to follow the uſual courſe and method of Parliament.

But the Commons were not a little ſurpriſed by the Meſſage from your Lordſhips delivered them on the ſeventh of *May*, thereby acquainting them, that as well the Lords Spiritual as Temporal, had ordered that the tenth of *May* inſtant ſhould be the Day for hearing the Earl of *Danby*, to make good his Plea of Pardon. And that on the thirteenth of *May*, the other five Lords Impeached, ſhould be brought to their Tryal, and that your Lordſhips had addreſſed to his Majeſty for naming of a Lord high Steward, as well in the Caſe of the Earle of *Danby*, as the other five Lords.

Upon Conſideration of this ſaid Meſſage, the Commons found, that the admitting the Lords Spiritual to exerciſe Juriſdiction in theſe caſes, was an alteration of the Judicature in Parliament, and which extended as well to the proceeding againſt the five Lords, as the Earle of *Danby*. And that if a Lord high Steward ſhould be neceſſary upon Tryal, on Impeachment of the Commons; The Power of Judicature in Parliament, upon Impeachments might be defeated by ſuſpending or denying a Commiſſion to Conſtitute a Lord high Steward.

And that the ſaid Days of Tryal appointed by your Lordſhips, were ſo near to the time of your ſaid Meſſage, that theſe Matters, and the Method of proceeding upon the Trial, could not be adjuſted by Conference betwixt the two Houſes, before the Day ſo nominated. And conſequently the Commons could not then proceed to Tryal, unleſs the Zeal which they have for ſpeedy Judgment againſt the Earle of *Danby*, (That ſo they might proceed to the Tryal of the other five Lords) ſhould induce them at this Juncture, both to admit the inlargement of your Lordſhips Juriſdiction, and to ſit down under theſe or any Hardſhips, (tho with the hazard of all the Commons Power of impeaching for time to come) rather then the Tryal of the ſaid five Lords ſhould be deferred for ſome ſhort time, whilſt theſe Matters might be agreed on and ſetled.

For reconciling Differences in theſe great and weighty Matters, and for ſaving that time which would neceſſarily have been ſpent in Debates and Conferences betwixt the two Houſes, and for expediteing the Tryal, without giving up the Power of Impeachment, or rendring them ineffectual.

The Commons thought fit to propoſe to your Lordſhips, that a Commitee of both Houſes might be appointed for this purpoſe. At which Committee (when agreed to by your Lordſhips,) It was firſt propoſed that the time of Tryal of the Lords in the Tower, ſhould be put off till the other Matters were adjuſted, and it was then agreed, that the Propoſition as to the time of the Tryal, ſhould be the laſt thing conſidered. And the effect of this Agreement ſtands reported upon your Lordſhips Books.

After which the Commons communicated to your Lordſhips by your Committee, a Vote of theirs, (*viz.*) that the Committee of the Commons ſhould inſiſt upon their former Vote of their Houſe. That the Lords Spiritual ought not to have any Vote in any proceedings againſt the Lords in the Tower, and that when that Matter ſhould be ſetled, and the Method of Proceedings adjuſted, the

Commons

Commons would then be ready to proceed upon the Trial of the Pardon of the Earl of *Danby*, againſt whom they had before demanded Judgment, and afterwards to the Trial of the other five Lords in the Tower, which Vote extended as well to the Earl of *Danby*, as the other five Lords; But the Commons as yet received nothing from your Lordſhips towards an Anſwer of that Vote, ſave that your Lordſhips have acquainted them, that the Biſhops have asked leave of the Houſe of Peers, that they might withdraw themſelves from the Tryal of the ſaid five Lords, with Liberty of entring their uſual proteſtation.

And though the Commons Committee have almoſt dayly declared to your Lordſhips Committee, that that was a neceſſary point of Right, to be ſetled before the Tryal, and offered to debate the ſame, your Committee always anſwered that they had not any Power from your Lordſhips, either to confer upon or to give any Anſwer concerning that Matter.

And yet your Lordſhips without having given the Commons any ſatiſfactory Anſwer to the ſaid Vote, or permitting any Conference or Debate thereupon, and contrary to the ſaid Agreement, did on Thurſday the twenty ſecond of *May* ſend a Meſſage to the Commons, Declaring that the Lords Spiritual as well as Temporal, had ordered that the twenty ſeventh of this Inſtant *May* be appointed for the Tryal of the five Lords.

So that the Commons cannot but apprehend that your Lordſhips have not only departed from what was agreed on, and in effect laid aſide that Committee, which was conſtituted for preſerving a good Underſtanding betwixt the two Houſes, and better diſpatch of the weighty Affairs now depending in Parliament, but muſt alſo needs Conclude from the ſaid Meſſage, and the Votes of your Lordſhips on the fourteenth of *May*; That the Lords Spiritual have a Right to ſtay and ſit in Court, till the Court proceeds to the Vote of Guilty or not Guilty. And from the Biſhops asking leave (as appears by your Lordſhips Books two Days after your ſaid Vote) that they might withdraw

withdraw themſelves from the Trial of the ſaid Lords, with Liberty of entring their uſual Proteſtation, and by their perſiſting ſtill to go on and give their Votes in Proceedings upon the Impeachment; That their deſire of leave to withdraw at the ſaid Tryal, is only an Evaſive Anſwer to the before mentioned Vote of the Commons, and chiefly intended as an Argument for a Right of Judicature in Proceedings upon Impeachment, and as a Reſerve to Judge upon the Earl of *Danby*'s Plea of Pardon; And upon theſe and other like Impeachments, although no ſuch Power was ever claimed by their Predeceſſors, but is utterly denied by the Commons: And the Commons are the rather induced to believe it ſo intended, becauſe the very asking leave to withdraw, ſeems to imply a Right to be there, and that they cannot be abſent without it.

And becauſe by this way they would have it in their Power, whether or no for the future, either in the Earl of *Danby*'s Caſe, or any other, they will ever ask leave to be abſent; And the Temporal Lords a like Power of denying leave, if that ſhould once be admitted neceſſary.

The Commons therefore are obliged not to proceed to the Tryal of the Lords on the Twenty ſeventh of this Inſtant May, *but to adhere to their aforeſaid Vote: And for their ſo doing, beſides what hath been now and formerly by them ſaid to your Lordſhips, do offer you theſe Reaſons following.*

REASONS.

REASONS.

I.

BEcauſe your Lordſhips have received the Earl of *Danby's* Plea of Pardon, with a very long and unuſual Proteſtation; wherein he hath aſperſed His Majeſty by falſe Suggeſtions, as if His Majeſty had Commanded or Countenanced the Crimes he ſtands charged with; and particularly ſuppreſſing and diſcouraging the Diſcovery of the Plot, and endeavouring to introduce an Arbitrary and Tyrannical way of Government; which remains as a ſcandal upon Record againſt His Majeſty, tending to render His Perſon and His Government odious to His People; againſt which it ought to be the firſt and principal care of both Houſes to vindicate His Majeſty, by doing Juſtice upon the ſaid Earl.

II.

The ſetting up a Pardon to be a Bar of an Impeachment, defeats the whole uſe and effect of Impeachments; and ſhould this point be admitted, or ſtand doubted, it would totally diſcourage the exhibiting any for the future; whereby the chief Inſtitution for the preſervation of the Government, (and conſequently the Government it ſelf) would be deſtroyed. And therefore the Caſe of the ſaid Earl, (which in conſequence concerns all Impeachments whatſoever) ought to be determined before that of the ſaid Five Lords, which is but their particular Caſe.

And without reſorting to many Authorities of greater Antiquity, the Commons deſire your Lordſhips to take notice, (with the ſame regard they do) of the Declaration which that Excellent Prince, King *Charles* the Firſt of bleſſed Memory, made in this behalf, in his Anſwer to the Nineteen Propoſitions of both Houſes of Parliament; wherein ſtating the ſeveral parts of this regulated Monarchy, he ſays: *The King, the Houſe of Lords, and the Houſe of Commons have, each, particular Priviledges:* And among thoſe which belong

to the King, he reckons *power of Pardoning.* After the enumerating of which, and other His Prerogatives, His said Majesty adds thus: *Again, That the Prince may not make use of this High and perpetual Power, to the hurt of those for whose good he hath it; and make use of the name of publick necessity, for the gain of his private Favorites and Followers, to the detriment of his people; The House of Commons, (an Excellent Conserver of Liberty, &c.) is solely intrusted with the first Propositions concerning the Levies of Moneys, and the Impeaching of those, who, for their own ends, though countenanced by any surreptitiously-gotten Command of the King, have violated that Law, which he is bound (when he knows it) to protect, and to the protection of which they were bound to advise him, at least not to serve him in the contrary. And the Lords being trusted with a Judicatory Power, are an excellent skreen and bank between the Prince and People, to assist each against any Incroachments of the other; and by just Judgments to preserve that Law, which ought to be the Rule of every one of the three, &c. Therefore the power legally placed in both Houses, is more than sufficient to prevent and restrain the power of Tyranny, &c.*

III.

Until the Commons of *England* have right done them against this Plea of Pardon, they may justly apprehend, that the whole Justice of the Kingdome, in the Case of the Five Lords, may be obstructed and defeated by Pardons of like nature.

IV.

An Impeachment is virtually the voice of every particular Subject of this Kingdome, crying out against an oppression, by which every Member of that Body is equally wounded: and it will prove a matter of ill Consequence, that the universality of the people should have occasion ministred and continued to them, to be apprehensive of utmost danger from the Crown, from whence they of right expect protection.

V.

The Commons Exhibited Articles of Impeachment against the said Earl, before any against the Five other Lords, and demanded

manded Judgement upon thoſe Articles: whereupon, your Lordſhips having appointed the Trial of the ſaid Earl to be before that of the other Five Lords, Now your Lordſhips having ſince inverted that Order, gives a great cauſe of doubt to the Houſe of Commons, and raiſes a jealouſie in the Hearts of all the Commons of *England*, that, if they ſhould proceed to the Tryal of the ſaid Five Lords in the firſt place, not onely Juſtice will be obſtructed in the Caſe of thoſe Lords, but that they ſhall never have right done them in the matter of this Plea of Pardon, which is of ſo fatal conſequence to the whole Kingdome, and a new device to fruſtrate publick Juſtice in Parliament.

Which Reaſons and Matters being duely weighed by your Lordſhips, the Commons doubt not but your Lordſhips will receive ſatisfaction concerning their Propoſitions and Proceedings; and will agree, that the Commons ought not, nor can, without deſerting their Truſt, depart from their former Vote communicated to your Lordſhips; *That the Lords Spiritual ought not to have any Vote in any proceedings againſt the Lords in the* Tower; *and when that matter ſhall be ſetled, and the Methods of Proceeding adjuſted, the Commons ſhall then be ready to proceed upon the Tryal of the Earl of* Danby, *(againſt whom they have already demanded Judgment) and afterwards to the Tryal of the other Five Lords in the* Tower.

FINIS.